

REMARKS

This is a full and timely response to the recent Office Communication mailed April 22, 2005 and the non-final Official Action mailed October 4, 2004. Reconsideration of the application in light of the above amendment is respectfully requested. Claims 1-33 are pending in the present application, and claims 1-33 have been rejected. Claims 1, 3, 5, 6, 8, 9, 11, 13, 14, 17-19, 24 and 31-33 have been amended to better define the claims in light of the specification and disclosure. The amendments and new claims herein contain no new matter and are supported by the original claims, drawings and specification. Applicant respectfully traverses all rejections.

Drawings

Applicant notes the objection to the drawings and the indication that correction is required and will not be held in abeyance. Accordingly, Applicant has corrected Figures 1 and 2 to include a "Prior Art" legend and reference numeral "31." Figure 5 has been corrected to depict an "adjacent form member" (116) as set forth in claims 9 and 28. Figures 6A and 6B have been added to depict the "method" steps set forth in claims 24 and 31. A copy of the corrected drawings with the present Request for Reconsideration is included in Appendix A.

The office also required the drawings to show the "retractable pool cover" set forth in claims 1, 11, 24 and 31; and the "guide member" as set forth in claim 11. Applicant notes that "retractable pool cover" and "guide member" are used in the claim preambles merely to give context to the claims, and are not included as features of the invention that must be shown in the drawings.

Specification

The disclosure was also objected to because of a few informalities that have been corrected by the following amendments: paragraph 0005, line 5 is amended to replace "16" with "12"; paragraph 0020 has been amended to include a description of reference number "83" in Fig. 4B; and paragraph 0021, line 7 is amended to replace "102" with "92".

The specification was also objected to as failing to provide proper antecedent basis for the claimed subject matter. Claims 3, 5-9, 13-15, 17-19, 32 and 33 have been amended to reflect language and terminology used in the disclosure. Paragraph 0018, line 5; paragraph 20, line 8; and paragraph 21, line 8 have been amended to include references to "coupling member" and/or "alignment member" as set forth in claims 7, 9 and 15. Paragraph 0022 has also been amended to include language referring to "adjacent members" as depicted in Figure 5 of the corrected drawings, and as set forth in claims 9 and 28. A new paragraph has also been added after paragraph 23 and before paragraph 24 to reflect the "method" language as set forth in claims 24-26, 28 and 31-33. Support for the new paragraph is found in the originally filed claims, and in paragraph 0008 of the originally filed specification.

Rejection - 35 U.S.C. § 112: Indefinite

Claims 24 and 31 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Particularly, they were rejected because it was "unclear as to whether the 'elongated track' is intended to be part of the claimed combination since structure of the 'edging' is defined as being connected thereto, but no positive structural antecedent basis therefor has been defined." Office Action, page 4, paragraph 4. Claims 24 and 31 have been amended to clarify and better define the claims. Accordingly, Applicant respectfully requests withdrawal of this ground of rejection.

Rejection - 35 U.S.C. § 102(b)

The Office has rejected claims 1-8, 11-21, 23-27 and 29-33 under 35 U.S.C. § 102(b) as being anticipated by Stegmeier. See Office Action, page 5, paragraph 6. "A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. Applicant respectfully traverses this rejection.

The Office has not shown that Stegmeier sets forth each and every element of independent claims 1, 11, 24, or 31. Claim 1 recites "a support member adapted to be removably coupled to form member." Paragraph [0005] of the specification states that "[f]or purposes of this application, the terms 'mate' and 'mating' are substantially synonymous with 'couple' or 'coupling' and shall be construed broadly to mean being in contact, in an adjoining relationship, fit together, joined, or connected."

The Office has not shown that support member 50 of Stegmeier is adapted to be removably coupled to form member 28. Stegmeier is not an enabling disclosure since there is no apparent way to removably couple clip 37 from edge 84. Although Stegmeier indicates that the form 28 "can be easily removed," (col. 4, line 3; col 5, lines 44-46), it does not describe how the form 28 is easily removed. "The disclosure in an assertedly anticipating reference must provide an enabling disclosure of the desired subject matter; mere naming or description of the subject matter is insufficient, if it cannot be produced without undue experimentation." *Elan Pharm., Inc. v. Mayo Found. for Med. and Ed. Research*, 346 F.3d 1051, 1054, (Fed. Cir. 2003). Accord M.P.E.P. § 2121.01. Thus, claims 1, 11, 24 and 31 are not anticipated since Stegmeier is not an "enabling disclosure" as required—clip 37 is embedded in form 28 so that hook 38 attaches to edge 84 such that there is no disclosed or apparent way to uncouple the clip 37 or hook 38 from edge 84. Accordingly, Applicant

respectfully requests withdrawal of this ground of rejection.

Furthermore, Stegmeier does not disclose each and every element of claims 4, 5, 20, 26, 27 and 30. The Stegmeier support insert 50 does not provide any way to support the edging to allow the form 28 to be removed prior to the edging hardening. Stegmeier discloses that the form 28 is removed after the "decking 26 has been poured and completely set." See col. 4, lines 1-3; col 5, lines 44-46. Since Stegmeier does not disclose each and every element of the claims, Applicant respectfully requests withdrawal of this ground of rejection.

Rejection - 35 U.S.C. § 103

The Office has rejected claims 9, 10 and 28 under 35 U.S.C. § 103(a) as being unpatentable over Stegmeier in view of admitted prior art (APA), and claim 22 as being unpatentable over Stegmeier in view of Bumgarner. See Office Action, page 5, paragraphs 7-8. In particular, the Office rejected claims 9, 10 and 28 because "[i]t would have been obvious to one of ordinary skill in the art to associate an alignment member with the Stegmeier apparatus in order to facilitate construction." The Office rejected claim 22 because "in consideration of Bumgarner, it would have been obvious . . . to associate a bull-nose shape with the Stegmeier form member in order to construct a different, known, edging shape." Applicant respectfully traverses these rejections.

The Office has not established a prima facie case of obviousness. "To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." M.P.E.P. § 2143.03. Accord. M.P.E.P. § 706.02(j). For the reasons already set forth above, Stegmeier and Bumgarner, alone or in combination, do not teach each and every claim limitation in claim 1, from which claims 9 and 10 depend; claim 11, from which claim 22 depends; and claim 24, from which claim 28 depends. Thus, Applicant believes that claims


depends; and claim 24, from which claim 28 depends. Thus, Applicant believes that claims 9, 10, 22 and 28 are allowable over the prior art because the Office has not established a prima facie case of obviousness. Accordingly, Applicant respectfully requests withdrawal of this ground of rejection.

CONCLUSION

Applicant respectfully requests the Office to withdraw the pending grounds of rejection and allow the pending claims. No fees are believed to be due in connection with the resubmission of this Amendment. However, if any additional fees are required in connection with the filing of this paper, permission is given to charge our Deposit Account No. 18-0013, under Order No. 40059-0010.

Respectfully Submitted,

By


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APPENDIX A:
REPLACEMENT SHEET OF DRAWINGS